

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ROBERT M. GERBER, *et al.*,)
Plaintiffs,)
v.) CIVIL ACTION
Defendants.) NO. 05-10782-DPW

GEORGE S. BOURNAKEL, *et al.*,)
Plaintiffs,)
v.) CIVIL ACTION
Defendants.) NO. 05-12178-DPW

JOINT MOTION CONCERNING CONSOLIDATION OF CASES AND SCHEDULING

The parties respectfully submit the following Joint Motion Concerning Consolidation of Cases and Scheduling.

I. Consolidation of Cases and Schedule for Filing Consolidated Amended Complaint and Answer.

At the November 30, 2006 hearing on the Motion To Dismiss in *Gerber et al. v. Bowditch et al.*, C.A. No. 05-10782-DPW, the Court indicated that *Bournakel et al. v. Bowditch et al.*, C.A. No. 05-12178-DPW should be consolidated with the *Gerber* case. The Complaints in the two actions contain the same allegations, but involve different plaintiffs. The parties jointly move for the entry of an order confirming the consolidation.

Additionally, in the interests of efficiency and to avoid confusion, the parties request that Plaintiffs be given the opportunity to file a consolidated amended complaint, for purposes of combining and restating the allegations in a consolidated amended complaint and in light of the Court's Order dated May 8, 2006. Plaintiffs agree to file and serve a consolidated amended complaint within ten (10) days of the Court's consolidation order.

At present, Defendants' answer to the pending complaint in *Gerber* is due on May 18, 2006. In consideration of the parties' request that the Plaintiffs be given the opportunity to file a consolidated amended complaint, the parties request that this deadline be extended. Specifically, the parties propose that the Defendants' answer to the consolidated amended complaint be due fourteen (14) days after the consolidated amended complaint is served.

II. Proposed Pretrial Schedule.

In light of the requested consolidation, the parties seek to extend the deadline for fact discovery in the proposed pretrial schedule they filed on September 13, 2005, to account for the extensive discovery expected to be taken in this case. The following schedule reflects this change, and substitutes actual dates where only time periods were used in the September 13, 2005 submission (due to the then-pending Motion to Dismiss as well as the PSLRA automatic stay).

Event	Deadline
File all motions to amend the pleadings and add parties	November 8, 2006
Completion of all fact discovery	May 8, 2007
Plaintiffs identify trial expert(s) and serve expert report(s)	May 8, 2007
Defendants identify trial expert(s) and serve expert reports	June 22, 2007
Plaintiffs serve rebuttal expert reports(s)	July 23, 2007
Complete expert depositions	September 7, 2007
Deadline for filing Rule 56 motions	October 8, 2007
Final pretrial conference	December 7, 2007

Respectfully submitted,

**ROBERT M. GERBER, AS TRUSTEE OF
ROSALIE GERBER TRUST, WILLIAM J.
GILLIGAN AND JAYNE GILLIGAN,
HUSBAND AND WIFE, SANFORD R.
HOFFMAN AND BETH L. HOFFMAN,
HUSBAND AND WIFE AND JAMES D.
BURNS**

**GEORGE S. BOURNAKEL, NANCY
MARCOTTE, MURIEL G. MILLER,
DAVID A. OLSHAN, VICTOR
PARSONNET, BETTY PERL, BETRYCE
PROSTERMAN INDIVIDUALLY AND AS
TRUSTEE OF THE ALBERT
PROSTERMAN REVOCABLE TRUST,
GEORGE E. REED, DONALD DAY, AS
PERSONAL REPRESENTATIVE OF THE
ESTATE OF ROBERT SCHEUR, AND
WILLIAM WISHNICK,**

By their attorneys,

Respectfully submitted,

**ROBERT S. BOWDITCH, JR., GERALD
SLAVET, STEVEN RIOFF, and BSR
ASSOCIATES,**

By their attorneys,

/s/ Paul McDonald

Paul McDonald, *Pro Hac Vice*
Daniel J. Murphy, 656021
BERNSTEIN SHUR SAWYER & NELSON
100 Middle Street
P.O. Box 9729
Portland, ME 04104-5029
(617) 951-8000

/s/ Christina Davilas

Steven W. Hansen, BBO #220820
Donald J. Savery, BBO #564975
Christina Davilas, BBO #655477
BINGHAM McCUTCHEN LLP
150 Federal Street
Boston, MA 02110-1726
(617) 951-8000

/s/ John J. O'Connor

John J. O'Connor, BBO# 555251
PEABODY & ARNOLD LLP
30 Rowes Wharf
Boston, MA 02110
(617) 951-2077

Dated: May 18, 2006

